

AN ACT in relation to governmental ethics.

Be it enacted by the People of the State of Illinois,
represented in the General Assembly:

Section 5. The Secretary of State Act is amended by
adding Section 14 as follows:

(15 ILCS 305/14 new)

Sec. 14. Inspector General.

(a) The Secretary of State must, with the advice and consent of the Senate, appoint an Inspector General for the purpose of detection, deterrence, and prevention of fraud, corruption, mismanagement, gross or aggravated misconduct, or misconduct that may be criminal in nature in the Office of the Secretary of State. The Inspector General shall serve a 5-year term. If no successor is appointed and qualified upon the expiration of the Inspector General's term, the Office of Inspector General is deemed vacant and the powers and duties under this Section may be exercised only by an appointed and qualified interim Inspector General until a successor Inspector General is appointed and qualified. If the General Assembly is not in session when a vacancy in the Office of Inspector General occurs, the Secretary of State may appoint an interim Inspector General whose term shall expire 2 weeks after the next regularly scheduled session day of the Senate.

(b) The Inspector General shall have the following qualifications:

(1) has not been convicted of any felony under the laws of this State, another State, or the United States;

(2) has earned a baccalaureate degree from an institution of higher education; and

(3) has either (A) 5 or more years of service with a federal, State, or local law enforcement agency, at

least 2 years of which have been in a progressive investigatory capacity; (B) 5 or more years of service as a federal, State, or local prosecutor; or (C) 5 or more years of service as a senior manager or executive of a federal, State, or local agency.

(c) The Inspector General may review, coordinate, and recommend methods and procedures to increase the integrity of the Office of the Secretary of State. The duties of the Inspector General shall supplement and not supplant the duties of the Chief Auditor for the Secretary of State's Office or any other Inspector General that may be authorized by law. The Inspector General must report directly to the Secretary of State.

(d) In addition to the authority otherwise provided by this Section, but only when investigating the Office of the Secretary of State, its employees, or their actions for fraud, corruption, mismanagement, gross or aggravated misconduct, or misconduct that may be criminal in nature, the Inspector General is authorized:

(1) To have access to all records, reports, audits, reviews, documents, papers, recommendations, or other materials available that relate to programs and operations with respect to which the Inspector General has responsibilities under this Section.

(2) To make any investigations and reports relating to the administration of the programs and operations of the Office of the Secretary of State that are, in the judgement of the Inspector General, necessary or desirable.

(3) To request any information or assistance that may be necessary for carrying out the duties and responsibilities provided by this Section from any local, State, or federal governmental agency or unit thereof.

(4) To require by subpoena the appearance of

witnesses and the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary in the performance of the functions assigned by this Section, with the exception of subsection (c) and with the exception of records of a labor organization authorized and recognized under the Illinois Public Labor Relations Act to be the exclusive bargaining representative of employees of the Secretary of State, including, but not limited to, records of representation of employees and the negotiation of collective bargaining agreements. A subpoena may be issued under this paragraph (4) only by the Inspector General and not by members of the Inspector General's staff. A person duly subpoenaed for testimony, documents, or other items who neglects or refuses to testify or produce documents or other items under the requirements of the subpoena shall be subject to punishment as may be determined by a court of competent jurisdiction, unless (i) the testimony, documents, or other items are covered by the attorney-client privilege or any other privilege or right recognized by law or (ii) the testimony, documents, or other items concern the representation of employees and the negotiation of collective bargaining agreements by a labor organization authorized and recognized under the Illinois Public Labor Relations Act to be the exclusive bargaining representative of employees of the Secretary of State. Nothing in this Section limits a person's right to protection against self-incrimination under the Fifth Amendment of the United States Constitution or Article I, Section 10, of the Constitution of the State of Illinois.

(5) To have direct and prompt access to the Secretary of State for any purpose pertaining to the performance of functions and responsibilities under this

Section.

(e) The Inspector General may receive and investigate complaints or information from an employee of the Secretary of State concerning the possible existence of an activity constituting a violation of law, rules, or regulations; mismanagement; abuse of authority; or substantial and specific danger to the public health and safety. Any employee who knowingly files a false complaint or files a complaint with reckless disregard for the truth or the falsity of the facts underlying the complaint may be subject to discipline as set forth in the rules of the Department of Personnel of the Secretary of State.

The Inspector General may not, after receipt of a complaint or information from an employee, disclose the identity of the employee without the consent of the employee, unless the Inspector General determines that disclosure of the identity is reasonable and necessary for the furtherance of the investigation.

Any employee who has the authority to recommend or approve any personnel action or to direct others to recommend or approve any personnel action may not, with respect to that authority, take or threaten to take any action against any employee as a reprisal for making a complaint or disclosing information to the Inspector General, unless the complaint was made or the information disclosed with the knowledge that it was false or with willful disregard for its truth or falsity.

(f) The Inspector General must adopt rules, in accordance with the provisions of the Illinois Administrative Procedure Act, establishing minimum requirements for initiating, conducting, and completing investigations. The rules must establish criteria for determining, based upon the nature of the allegation, the appropriate method of investigation, which may include, but is not limited to, site

visits, telephone contacts, personal interviews, or requests for written responses. The rules must also clarify how the Office of the Inspector General shall interact with other local, State, and federal law enforcement investigations.

Any employee of the Secretary of State subject to investigation or inquiry by the Inspector General or any agent or representative of the Inspector General concerning misconduct that is criminal in nature shall have the right to be notified of the right to remain silent during the investigation or inquiry and the right to be represented in the investigation or inquiry by an attorney or a representative of a labor organization that is the exclusive collective bargaining representative of employees of the Secretary of State. Any investigation or inquiry by the Inspector General or any agent or representative of the Inspector General must be conducted with an awareness of the provisions of a collective bargaining agreement that applies to the employees of the Secretary of State and with an awareness of the rights of the employees as set forth in State and federal law and applicable judicial decisions. Any recommendations for discipline or any action taken against any employee by the Inspector General or any representative or agent of the Inspector General must comply with the provisions of the collective bargaining agreement that applies to the employee.

(g) On or before January 1 of each year, the Inspector General shall report to the President of the Senate, the Minority Leader of the Senate, the Speaker of the House of Representatives, and the Minority Leader of the House of Representatives on the types of investigations and the activities undertaken by the Office of the Inspector General during the previous calendar year.

Section 10. The Secretary of State Merit Employment Code

is amended by changing Section 16 as follows:

(15 ILCS 310/16) (from Ch. 124, par. 116)

Sec. 16. Status of present employees. Employees holding positions in the Office of the Secretary of State herein shall continue under the following conditions:

(1) Employees who have been appointed as the result of having passed examinations in accordance with the provisions of the "Personnel Code", and who have satisfactorily passed the probationary period or who have been promoted in accordance with the rules thereunder, shall be continued without further examination, but shall be otherwise subject to provisions of this Act and the rules made pursuant to it.

(2) Employees who have been appointed as the result of having passed examinations pursuant to the provisions of the "Personnel Code" but have not completed their probationary period on the effective date of this Act shall be continued without further examination but shall be otherwise subject to provisions of this Act and the rules made pursuant to it. Time served on probation prior to the effective date of this Act shall count as time served on the probationary period provided by this Act.

(2.5) Persons who, immediately before the effective date of this amendatory Act of the 93rd General Assembly, were employees with investigatory functions of the Inspector General within the Office of the Secretary of State and who are subject to the Secretary of State Merit Employment Code shall be appointed to the position of inspector, as described in Section 14 of the Secretary of State Act, if they: (i) meet the requirements described in Section 14 of the Secretary of State Act; (ii) pass a qualifying examination as prescribed by the Director of Personnel within 6 months after the effective date of this amendatory Act of the 93rd General Assembly; and (iii) satisfactorily complete their respective

probationary periods. The qualifying examination for inspectors shall be similar to those required for entrance examinations for comparable positions in the Office of the Secretary of State. Inspectors shall be appointed without regard to eligible lists. Nothing in this subsection precludes the Office of the Secretary of State from reclassifying or reallocating employees who would otherwise qualify as inspectors.

(3) All other such employees subject to the provisions of this Act shall be continued in their respective positions if they pass a qualifying examination prescribed by the Director within 9 months from the effective date of this Act, and satisfactorily complete their respective probationary periods. Such qualifying examinations shall be similar to those required for entrance examinations for comparable positions in the Office of the Secretary of State. Appointments of such employees shall be without regard to eligible lists. Nothing herein precludes the reclassification or reallocation as provided by this Act of any position held by such incumbent.

(4) Nothing in this Act shall be construed to prejudice, reduce, extinguish or affect the rights or privileges determined through judicial process to have been conferred on any present or past employee under the Illinois Personnel Code. In the event that any court of competent jurisdiction shall determine that present or past employees of the Secretary of State have any rights arising from the Illinois Personnel Code, those rights shall be recognized under this Act.

(5) Any person who, as a result of any court order, court approved stipulation or settlement, has any employment or re-employment rights prior to the effective date of this Act shall continue to have such rights after the effective date of this Act.

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(Source: P.A. 80-13.)

Section 99. Effective date. This Act takes effect upon becoming law.